

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
AUG 19 2004
PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

JOINT APPLICATION OF KENTUCKY)
UTILITIES COMPANY, KENTUCKY ASSOCIATION)
FOR COMMUNITY ACTION AND COMMUNITY)
ACTION COUNCIL FOR LEXINGTON - FAYETTE,) CASE 2004 - 00303
BOURBON, HARRISON AND NICHOLAS COUNTIES)
FOR THE ESTABLISHMENT OF A HOME ENERGY)
PROGRAM)

**RESPONSE OF ROBERT L. MADISON TO KU OBJECTION TO MY
REQUEST FOR FULL INTERVENTION AND MOTION FOR THE
ESTABLISHMENT OF A PROCEDURAL SCHEDULE DATED 12 AUG 2004**

THIS IS THE RESPONSE OF ROBERT L. MADISON TO THE KU OBJECTION TO MY FULL INTERVENTION REQUEST AND MOTION FOR THE ESTABLISHMENT OF A PROCEDURAL SCHEDULE DATED 12 AUG 2004.

THE PSC SHOULD OPEN UP A CASE TO INVESTIGATE THE KU HEA

THE PSC SHOULD OPEN UP A CASE AND ESTABLISH A PROCEDURAL SCHEDULE FOR THE FOLLOWING REASONS :

1. TO DETERMINE IF THE LEGAL CRITERIA OF 278.285 (1) (f) & (3) HAVE BEEN MET RELATED TO THE EXTENT TO WHICH CUSTOMER REPRESENTATIVES AND THE OFFICE OF THE ATTORNEY GENERAL HAVE BEEN INVOLVED IN DEVELOPING THE PLAN AND THE AMOUNT OF SUPPORT FOR THE PLAN BY EACH PARTICIPANT.

IT APPEARS THAT THE JOINT APPLICANTS HAVE USED A LIMITING AND SECRETIVE PROCEDURE WHERE ONLY LIMITED GROUPS COULD PARTICIPATE IN THE PROCESS. ALSO THE ROLE OF THE AG IS NOT CLEAR. THE AG DID NOT SIGN THE JOINT APPLICATION.

2. THERE HAS BEEN NO TESTIMONY FILED, NO OPPORTUNITY FOR DATA REQUESTS, ALTERNATIVE PROPOSALS OR IDEAS, NO SWORN TESTIMONY, NO DUE PROCESS AND PROCEDURE, NO OPPORTUNITY FOR PUBLIC COMMENT AND NO OPPORTUNITY FOR OTHER CUSTOMER REPRESENTATIVES OTHER THAN THOSE CHOSEN BY THE UTILITY TO PARTICIPATE.

THE PSC SHOULD OPEN UP THIS PROCEDURE TO ENSURE THAT IT IS FAIR JUST AND REASONABLE.

3. THE KU HEA DIFFERS SIGNIFICANTLY FROM THE PROPOSED LG&E HEA. FURTHER INVESTIGATION IS NEEDED TO DETERMINE THE MERITS OF THE PROGRAM PARAMETERS. IF COMPONENTS OF THE KU HEA HAVE MERIT, MAYBE THE LG&E HEA SHOULD ADOPT THESE ISSUES. (OR VICE VERSA) THE KU SERVICE AREA HAS NOT HAD A PSC APPROVED HEA. PERHAPS A TEMPORARY PILOT PROGRAM FOLLOWED BY A REPORT AND EVALUATION WOULD BE APPROPRIATE. HOW WILL A CUSTOMER IN A COUNTY THAT HAS BOTH SERVICE FROM LG&E AND KU BE TREATED DIFFERENTLY IN A HEA ? WHAT IF A CUSTOMER IS A LG&E AND A KU CUSTOMER ? SHOULD A RESIDENTIAL CUSTOMER LIVING A SHORT DISTANCE AWAY (IN THE SAME COUNTY) HAVE A BETTER OR WORSE HEA ? SHOULD HEA'S BE COMBINED IN CERTAIN COUNTIES ? BASED ON THE LG&E AND THE KU PROPOSED HEA'S WOULD A RECIPIENT OF THE DIFFERENT UTILITY BE ABLE TO GET A SIGNIFICANTLY DIFFERENT AMOUNT OF ASSISTANCE IN A YEAR ? IS THIS FAIR JUST AND REASONABLE ?

4. HOW WILL THE DECISIONS BE MADE FOR HEA ? WILL THERE BE A CONSULTATIVE BOARD CONSISTING OF A BALANCED CROSS SECTION OF INTERESTS ESTABLISHED TO OVERSEE THE NEW HEA PROGRAM ?

IT IS NOT CLEAR HOW THE FUNCTIONS OF A COLLABORATIVE BOARD WILL BE IMPLEMENTED UNDER THE PROPOSED KU DETAILS OF THE HEA.

5. RELATED TO THE GAS ELECTRIC SUBSIDY, THE JOINT APPLICANTS ARE PROPOSING A PROGRAM TO ASSIST NON ELECTRIC CUSTOMERS. WHAT ARE THE DETAILS ? IS THIS LEGAL ?

6. THE ISSUE OF UTILITY MATCH WAS NOT ADDRESSED IN EITHER THE SETTLEMENT AGREEMENT IN CASE 2003 - 434 OR THE JOINT APPLICATION TO THIS CASE. IN MY OPINION THIS IS A LIVE ISSUE.

7. DOES THE KU HEA HAVE ANY PROVISION TO ENSURE FAIR DISTRIBUTION OF FUNDS THROUGHOUT THE KU SERVICE TERRITORY ? THIS ISSUE WAS NOT ADDRESSED IN THE JOINT APPLICATION.

THE PSC SHOULD APPROVE MY REQUEST FOR FULL INTERVENTION

THE PSC SHOULD MAKE A DETERMINATION IF I MEET EITHER OF THE CRITERIA IN 807 KAR : 001 (3) (8). IF I MEET THE CRITERIA I SHOULD BE GRANTED FULL INTERVENTION.

INCLUDED IN MY FULL INTERVENTION REQUEST, DATED 03 AUG 2003 2004, I REFERENCE THE NINE PSC CASES THAT I HAVE BEEN GRANTED FULL INTERVENTION IN . THIS INCLUDES CASE 2001 - 323, THE ONLY HEA CASE IN KENTUCKY TO ACTUALLY HAVE A CASE OPENED. I HAVE PREVIOUSLY DEMONSTRATED IN OTHER PSC CASE THAT I HAVE MET BOTH PARTS OF THE LEGAL CRITERIA FOR FULL INTERVENTION.

IN THEIR CURRENT OBJECTION, KU DOES NOT REPEAT PREVIOUS

PAGE 3 OF 3
DATE: 18 AUG 2004

ARGUMENTS THAT THE AG HAS BEEN GRANTED INTERVENTION AND WILL ADEQUATELY REPRESENT RESIDENTIAL CUSTOMERS AND THAT THIS CASE CONTAINS HIGHLY TECHNICAL AND DETAILED ISSUES. THE PSC SHOULD MAKE THEIR INTERVENTION DETERMINATIONS BASED ON THE ACTUAL KU ARGUMENTS PRESENTED IN THIS CASE.

ON PAGE 3 OF THE KU OBJECTION IT STATES :

THE INTERESTS OF RESIDENTIAL CUSTOMERS HAVE BEEN FAIRLY AND ADEQUATELY REPRESENTED BY THE ATTORNEY GENERAL THROUGH HIS PARTICIPATION IN THE DEVELOPMENT OF THE HEA PROGRAM.

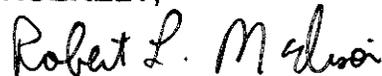
IS THIS TRUE ? THERE IS NOT DOCUMENTATION OR BASIS FOR THIS STATEMENT. SIMILAR STATEMENTS MADE BY LG&E COUNSEL ATTEMPTING TO REPRESENT THE AG WERE REJECTED BY THE PSC IN CASE 2001 - 323.

**THE PSC SHOULD ESTABLISH A PROCEDURAL SCHEDULE FOR A
NEW HEA CASE**

THE PSC SHOULD ESTABLISH A PROCEDURAL SCHEDULE BASED ON THE ONE I SUBMITTED DATED 03 AUG 2004. THE DATES MAY HAVE TO BE MODIFIED DUE TO DELAYS NECESSITATED BY KU'S OBJECTIONS. THE PSC SHOULD NOT APPROVE ANY TARIFF UNTIL THE CASE HAS BEEN APPROVED. IF THE JOINT APPLICANTS ENGAGE IN DELAYING TACTICS OR FAIL TO ANSWER DATA REQUESTS OR PARTICIPATE IN THE PROCESS, THEY SHOULD HAVE THE FUNDS DELAYED AS A CONSEQUENCE.

I CERTIFY THAT ON 18 AUG 2004, COPIES OF THIS RESPONSE OF ROBERT L. MADISON WERE MAILED, REGULAR MAIL, TO ALL PARTIES OF RECORD.

SINCERELY,



ROBERT L. MADISON
5407 BAYWOOD DRIVE
LOUISVILLE KY 40241-1318
HOME PHONE: (502) 241-5079